IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 113 of 2006
With
COMPANY PETITION No. 114 of 2006
To
COMPANY PETITION No. 115 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TECHNO INDUSTRIES LTD. - Petitioner(s)
Versus
. - Respondent(s)

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Appearance :
MRS SANGEETA N PAHWA for Petitioner(s) : 1,
MR HARIN P RAVAL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 19/11/2007

ORAL JUDGMENT

1. The present petitions are for sanctioning the Scheme of Amalgamation. The petitioner of Company Petition No.113 of 2006 and the petitioner of Company Petition No.115 of 2006 are the Transferor Companies and the petitioner of Company Petition No.114 of 2006 is the Transferee Company. The Scheme which is proposed to be sanctioned is produced at Annexure-C in the petitions.

2. In Company Petition No.113 of 2006, pursuant to the order dated 10.7.2006 passed by this Court(Coram: Anant S. Dave, J.) in Company Application No.353 of 2006 the meeting of the equity shareholders and of the creditors was dispensed with.

3. All the three petitions came to be admitted on 19.7.2006 and it was ordered to advertise in two daily newspapers i.e. Indian Express and Loksatta Jansatta (both Ahmedabad editions). The publication in the Government Gazette was dispensed with. Notice was issued to the Central Government through Regional Director. In the case of Company Petition Nos.113 of 2006 and 115 of 2006, being the Transferor Companies, notice was also issued to the Official Liquidator for examination through Chartered Accountant into the affairs of the Company.

4. The affidavit has been filed by Jay Shah, S/o of Shri Pankajbhai Shah together with a copy of the paper publication pursuant to the order passed by this Court. As per the affidavit dated 12.8.2007 filed by Jay Pankajbhai Shah, authorised signatory of the Company,

no objection is received by the petitioner(s) or their learned advocate in response to the advertisement opposing the Scheme of Amalgamation or otherwise.

5. The Official Liquidator has filed the report dated 13.6.2007 with the report of Chartered Accountant, M/s.Rajni Shah and Associates and has stated in the report that the affairs of the transferor Companies have not been conducted in a manner prejudicial to the interest of the members or public interest.

6. In response to the notice to the Central Government, Mr. P.L. Malik, Asst. Registrar of Companies has filed affidavit raising the objection based on the communication received by the Registrar of Companies vide letter dated 09.04.2007 from the Regional Director, Ministry of Company Affairs.

7. The affidavit has been filed on behalf of the concerned petitioning Company of Company Petition No. 113/06 to meet with th objections raised on behalf of the Central Government. It may be recorded that since one of the objection was pertaining to no details of swap ratio, the aforesaid affidavit came to be filed. This Court on 08.10.2007 had directed that the justification of the swap ratio will have to be examined by the Central Government and after considering the objections, if any, pertaining thereto, the matter was to be further

considered.

8. It appears that thereafter, Mr. P.L. Malik, Asst. Registrar of Companies has filed the further affidavit dated 31.10.2007 and has ultimately, raised to objections, one being that the Company be directed to produce the latest financial statement before the High Court. The said financial statement is already produced with the affidavit dated 03.10.2007 filed on behalf of the Company and therefore, such objections would not survive. The second objection pertains to non-utilisation/clubbing of the authorised capital of the Transfer Companies by the Transferee Company. There is no provision made under the scheme for clubbing of the capital and therefore, such objection would not survive.

9. No adverse circumstances are brought to the notice of this Court.

10. Hence, the present Scheme of Amalgamation is sanctioned as per the provisions of the Companies Act.

11. Petitions are allowed to the aforesaid extent.

12. The fees of the learned Asst. Solicitor General shall be paid by the company concerned, which is quantified at Rs.3,500/- for each petition. It

will be open to the petitioning company to pay the cost directly to the counsel concerned by A/c. Payee cheque.

(Jayant Patel, J.)

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